

In the Matter of:)
)
Kings River Conservation) Docket No.
District (Kings River) Project) 03-SPPE-02
_____)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

James D. Boyd, Presiding Member

HEARING OFFICER AND ADVISERS PRESENT

Major Williams, Jr., Hearing Officer

Michael Smith, Adviser

Scott Tomashefsky, Adviser

STAFF and CONSULTANTS PRESENT

Lisa DeCarlo, Staff Counsel

Jack Caswell, Project Manager

Brewster Birdsall

Obed Odoemelum

Tony Mediati

Matt Trask

PUBLIC ADVISER

Mike Monasmith

APPLICANT

Edward J. Tiedemann, Attorney
Kronick, Moskovitz, Tiedemann and Girard

Jack Sinor, Assistant General Manager
Scott Redelfs, Director of Resources
Kings River Conservation District (KRCD)

Max Walenciak, Principal
Thor Hibbeler
Navigant Consulting

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P R O C E E D I N G S

10:05 a.m.

HEARING OFFICER WILLIAMS: This is the first evidentiary hearing for the Kings River Conservation District Peaking Plant, or the Kings River project.

Before we begin I would introduce the Committee; and then ask that the parties identify themselves for the record. Commissioner James Boyd, the Presiding Member, is present. Chairman Keese is not present. Mike Tomashefsky --

MR. TOMASHEFSKY: Scott.

HEARING OFFICER WILLIAMS: Scott, Scott Tomashefsky to my left is representing Chairman Keese. And Mike Smith will be attending later; and he is Commissioner Boyd's Adviser. I'm the Hearing Officer, Major Williams, Jr.

I don't see our Public Adviser at this point. Oh, Mike Monasmith.

MR. MONASMITH: Mike Monasmith, Public Adviser's Office.

HEARING OFFICER WILLIAMS: Yes, is present. If anyone has any questions about the process today and the purpose of Commission evidentiary hearing Mike is the person to see.

1 I see that the parties are present. The
2 applicant is here, Mr. Tiedemann, counsel; Mr.
3 Sinor, the Assistant General Manager of the
4 project; along with members of his staff are
5 present.

6 Staff, Jack Caswell is present, along
7 with staff counsel Lisa DeCarlo. I guess those
8 are all staff members back there in the audience.

9 MS. DeCARLO: Yes, they are.

10 HEARING OFFICER WILLIAMS: Okay. So we
11 don't have any members of the public here today.
12 CURE is not present.

13 The Committee scheduled today's events
14 in a notice of evidentiary hearing dated March 11,
15 2004. As explained in the notice we will receive
16 evidence by declaration for the topics listed on
17 attachments A and B. And proceed to testimony
18 from witnesses for the topics listed on attachment
19 D, only. I'll just let you know how I think we
20 ought to proceed, and I'll take any suggestions
21 from counsel if you have some ideas on the
22 subject.

23 I've distributed an amended exhibit list
24 to correspond to the declarations that were filed
25 as testimony. I think what might be the best way

1 to proceed is to move the exhibits into evidence,
2 starting with the applicant.

3 Next we'll have the applicant and staff
4 witnesses present respective testimony on project
5 description; response to agency comments; noticing
6 and so forth.

7 And then finally proceed to the witness
8 presentations on the remaining topics on
9 attachment B.

10 Do the parties anticipate the need to
11 brief anything?

12 MS. DeCARLO: No, staff does not believe
13 there are any legal issues outstanding that would
14 require any briefing.

15 HEARING OFFICER WILLIAMS: Okay. Mr.
16 Tiedemann.

17 MR. TIEDEMANN: No; we concur, we don't
18 see any need for briefing.

19 HEARING OFFICER WILLIAMS: Okay. So I
20 think that what we'll do is we'll have you
21 introduce applicant's exhibits, Mr. Tiedemann.

22 MR. TIEDEMANN: Yes, we move that they
23 be accepted into evidence.

24 HEARING OFFICER WILLIAMS: Okay. We'll
25 start with exhibit 1, which is the application in

1 its entirety. Any objection, staff?

2 MS. DeCARLO: No objections.

3 HEARING OFFICER WILLIAMS: Okay. Any
4 objection to the testimony set forth in the
5 declarations represented by exhibit 1 through 12?

6 MS. DeCARLO: No objections.

7 HEARING OFFICER WILLIAMS: Exhibit 1A,
8 any objection?

9 MS. DeCARLO: No objections.

10 HEARING OFFICER WILLIAMS: 1B.

11 MS. DeCARLO: No objections.

12 HEARING OFFICER WILLIAMS: 1C.

13 MS. DeCARLO: No objections.

14 HEARING OFFICER WILLIAMS: 1D.

15 MS. DeCARLO: No objections.

16 HEARING OFFICER WILLIAMS: Okay, those
17 will be admitted, of course, subject to the
18 testimony on those areas that we have testimony.

19 Okay, staff, you may move your exhibits.

20 MS. DeCARLO: Staff offers to move our
21 exhibit 2 and 2A, the initial study and
22 supplemental testimony, into the record.

23 HEARING OFFICER WILLIAMS: Okay, and 2B,
24 which would be Mr. Tyler's revised declaration.

25 MS. DeCARLO: Yes, and 2B.

1 HEARING OFFICER WILLIAMS: Okay. Any
2 objection?

3 MR. TIEDEMANN: No.

4 HEARING OFFICER WILLIAMS: Okay, those
5 will be admitted, as well.

6 Okay. So now we'll proceed to have
7 applicant and staff present the witnesses. Mr.
8 Tiedemann.

9 MR. TIEDEMANN: Yes. I'd like to call
10 as the first witness Jack Sinor.

11 HEARING OFFICER WILLIAMS: Yes. If he
12 can be sworn, please, Mr. Court Reporter.
13 Whereupon,

14 JACK SINOR

15 was called as a witness herein, and after first
16 having been duly sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MR. TIEDEMANN:

20 Q Mr. Sinor, did you sign a declaration on
21 March 11, 2004, that's before you there?

22 A Yes, I did.

23 Q And you testified under penalty of
24 perjury that that was true and correct. Is it
25 still true and correct?

1 A Yes, it is.

2 Q Would you briefly describe your
3 qualifications and your position.

4 A I'm presently employed as the Assistant
5 General Manager, Chief Engineer for the Kings
6 River Conservation District. I've worked for the
7 District almost 22 years. Previously I served as
8 chief of the construction division during the
9 construction of the Pine Flat Power Plant. I'm
10 also a registered civil engineer in the State of
11 California.

12 In addition to my duties at KRCD I'm
13 also the project manager for the Kings River
14 Conservation District Peaking Plant that is before
15 us today. And I have, under my preparation or
16 under my direction, prepared various sections of
17 the application for the small power plant
18 exemption, including the executive summary,
19 project facility description and also chapter 4
20 with respect to the efficiency and energy
21 resources. And also chapter 6 on the project
22 alternatives.

23 Q On the project description would you
24 give us a brief description of the project?

25 A The project consists of a 97 megawatt

1 generating plant consisting of two simple cycle
2 LM6000 Sprint natural gas fired combustion
3 turbines.

4 They're to be sited in the Greater
5 Fresno Area near the community of Malaga. The
6 District has acquired an option on a 19-acre site.
7 The power plant, itself, will be situated on the
8 back 9.5 acres. The front portion of the site
9 will be used for construction laydown and the
10 staging area during construction.

11 Also the project is -- the District has
12 a power purchase agreement with the State of
13 California, Department of Water Resources, whereby
14 we will sell the entire output of the facility
15 solely to the Department for a ten-year period
16 under the contract. They will have exclusive
17 rights to dispatch the power from the peaking
18 plant.

19 It's anticipated now the limitation is
20 for the plant to operate not more than 2500 hours
21 in a year. And there is a provision under the
22 contract that provides that the Department may
23 direct the District to also make the plant
24 available to bid into the Cal-ISO market for
25 ancillary services if it deems necessary.

1 Q Very briefly, where are you getting the
2 water resources for the plant?

3 A The water supply needs for the plant
4 will be supplied from the Malaga County Water
5 District, which the local community public service
6 water agency that serves the community of Malaga,
7 which we are adjacent to.

8 We have negotiated a supply agreement
9 whereby they will provide water through their
10 community water system which is supplied through
11 groundwater.

12 MR. TIEDEMANN: Mr. Chairman, Mr. Sinor
13 is also going to testify on energy resources and
14 alternatives. And I don't know whether you want
15 to wait and allow cross-examination on the project
16 description now, or you want him to go ahead with
17 the rest of it.

18 HEARING OFFICER WILLIAMS: I think we
19 can go ahead.

20 MR. TIEDEMANN: Okay.

21 BY MR. TIEDEMANN:

22 Q Mr. Sinor, would you give us a brief
23 description of the material that's in the
24 application regarding energy resources and
25 alternatives?

1 A Basically under chapter 6 in energy
2 resources, the project is somewhat unique in the
3 fact that as part of the agreement with the State
4 of California, the two generating LM6000 gas
5 turbines were provided to the District as part of
6 a settlement through the Williams energy
7 settlement with the State of California. It was
8 the District's responsibility to site those
9 facilities.

10 And so actually with the fact that the
11 units were provided, those will be natural gas
12 fired units. We believe that the gas supply will
13 be furnished through PG&E. The State of
14 California will act as the fuel manager and take
15 care of all contracting requirements with PG&E to
16 supply fuel for the project.

17 We believe the PG&E system is capable of
18 delivering an adequate supply of gas to the
19 peaking plant. And furthermore, the
20 infrastructure is extensive and there will be gas
21 compressors included in the project to increase
22 the pressure of the gas up to operating levels.

23 With respect to alternatives, we also,
24 in our siting process, we looked at initially over
25 24 various sites within our District, which covers

1 about 1.2 million acres. We also investigated the
2 potential of siting the two LM6000 units on
3 separate sites versus one site. We determined
4 that it was in the best interests for the area to
5 site them both on one project site. And that's
6 what was done.

7 We believe the area that we selected
8 there near the community of Malaga is very close
9 to being able to tie the project into the existing
10 PG&E grid system whereby a transmission line
11 approximately three-quarter mile in length and a
12 new 115 kV line will be constructed by PG&E to
13 interconnect the project to their system.

14 The gas supply is a very short
15 connection, approximately 700 feet off of North
16 Avenue, which abuts the property on the north.

17 MR. TIEDEMANN: I think that concludes
18 his direct testimony. If there are any questions?

19 PRESIDING MEMBER BOYD: I have a
20 question.

21 HEARING OFFICER WILLIAMS: Commissioner
22 Boyd has a question.

23 PRESIDING MEMBER BOYD: Perhaps two.
24 You mentioned the current plan is to run the
25 facility about 2500 hours a year. Without me

1 digging through all this binder, is that a
2 downward revision from some of the earlier numbers
3 I've seen? Do I trust my memory?

4 I thought originally I'd seen 3000-plus-
5 some-odd hours.

6 MR. SINOR: No. The negotiations under
7 our contract that was the determination the
8 Department of Water Resources was to make and
9 provide us. And at the time, early on in the
10 process, they came back and advised us that 2500
11 is what they wanted us to acquire the permits for.

12 PRESIDING MEMBER BOYD: Oh, okay. I
13 recalled incorrectly perhaps.

14 Second question is you mentioned
15 compressors. Again, do I recall correctly there
16 are three compressors, a spare and two mainline
17 compressors for the gas?

18 MR. SINOR: That is correct.

19 PRESIDING MEMBER BOYD: Okay. That's
20 all.

21 MS. DeCARLO: If I may say something. I
22 believe the air permit does allow for 2500 hours
23 of full operation, but it also accommodates the
24 ramping up and ramping down. So staff did
25 identify about 3000, 3100 hours of entire air

1 quality permit, and --

2 PRESIDING MEMBER BOYD: Thank you. That
3 must be where I read it.

4 MS. DeCARLO: -- in air quality staff
5 can further discuss that if you have questions.

6 MR. SINOR: Yes, there was a margin of
7 about 10 percent placed on that to insure part of
8 our requirement with the Department is that the
9 permits will not constrict the operation of the
10 2500. So that was -- there is, you're correct, it
11 was 3000.

12 PRESIDING MEMBER BOYD: I'm also trying
13 to prove that I really do read all this stuff.

14 (Laughter.)

15 HEARING OFFICER WILLIAMS: Thank you,
16 Mr. Sinor.

17 MR. TIEDEMANN: I have no further
18 redirect.

19 HEARING OFFICER WILLIAMS: Staff, do you
20 have any questions?

21 MS. DeCARLO: No questions for the
22 applicant.

23 HEARING OFFICER WILLIAMS: Okay. Then
24 we'll move right along into Mr. Caswell's
25 testimony.

1 MS. DeCARLO: Staff calls Jack Caswell
2 as our witness for project description.

3 MR. CASWELL: Yes, I'm Jack Caswell,
4 Project Manager --

5 UNIDENTIFIED SPEAKER: Please stand and
6 be sworn.

7 Whereupon,

8 JACK CASWELL
9 was called as a witness herein, and after first
10 having been duly sworn, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MS. DeCARLO:

14 Q Mr. Caswell, is a statement of your
15 qualifications attached to your testimony?

16 A Yes.

17 Q And can you briefly state your education
18 experience and position with the Energy
19 Commission.

20 A Yes. I have been project manager for
21 four years and approximately eight projects,
22 siting projects, for the Energy Commission. Prior
23 to --

24 HEARING OFFICER WILLIAMS: Mr. Caswell,
25 excuse me. Is there any objections to his

1 qualifications? Can we move along?

2 MR. TIEDEMANN: No objection.

3 HEARING OFFICER WILLIAMS: Okay, why
4 don't we just move right to the testimony.

5 BY MS. DeCARLO:

6 Q Can you please summarize your testimony.

7 A Yes. I've submitted a executive summary
8 of the project and I'd like to discuss a little
9 bit of the process which we took this project
10 through, through the notification process.

11 This process included sending out the
12 notices of receipt, not only to libraries and
13 responsible trustees and agencies and contiguous
14 property owners, but also letters of contact to
15 the Senator and Assemblywoman and Fresno County
16 Supervisor serving the Malaga District.

17 We also have had, with the cooperation
18 of the Public Adviser's Office, sent out extensive
19 notices of all the proceedings, as well as notices
20 for the workshops, site visit and any other
21 information that was open to the public.

22 Included, again, the draft initial study, as well
23 as the final initial study, and a draft initial
24 study workshop.

25 We established a consultation contact

1 with the Fresno County Planning Department and
2 worked closely with them on areas when we were
3 developing conditions of exemption for this
4 project. And discussed with them those conditions
5 of exemption and took their input for that to see
6 if they would like to be the lead compliance
7 project manager on that, on these things, since it
8 is an exemption and not a license. We worked
9 closely with that with the Fresno County Planning
10 Department in that.

11 We have incorporated comments from
12 agencies. The only agencies that we were -- we
13 actually had two agencies that contacted us. And,
14 again, that was the Fresno County Planning
15 Department, as well as the Department of Toxic
16 Substances Control in California.

17 We have some additional 24 conditions of
18 exemption that we have added to the already -- the
19 mitigation that the applicant has suggested in
20 order to reduce this project to a less than
21 significant adverse effect on the public and the
22 environment. And those mitigation measures have
23 been incorporated in this initial study.

24 I think that's about it.

25 MS. DeCARLO: Okay.

1 HEARING OFFICER WILLIAMS: Is there any
2 cross-examination?

3 MR. TIEDEMANN: No cross.

4 HEARING OFFICER WILLIAMS: Okay, thank
5 you, Mr. Caswell.

6 I guess then we'll move to air quality.

7 MR. TIEDEMANN: All right, we'll call
8 Thor Hibbeler.

9 Whereupon,

10 THOR HIBBELER
11 was called as a witness herein, and after first
12 having been duly sworn, was examined and testified
13 as follows:

14 DIRECT EXAMINATION

15 BY MR. TIEDEMANN:

16 Q Mr. Hibbeler, I show you your
17 declaration which is exhibit 1. --

18 HEARING OFFICER WILLIAMS: Sir, do you
19 want to stand? You can sit if you'd like.

20 MR. HIBBELER: Oh, all right.

21 HEARING OFFICER WILLIAMS: Do we have a
22 mike over there?

23 BY MR. TIEDEMANN:

24 Q Is that still your testimony?

25 A It is.

1 Q And would you state your position and
2 your qualifications.

3 A Well, I'm Senior Engagement Manager for
4 Navigant Consulting, Incorporated. I've got a
5 bachelors degree in engineering and have worked on
6 the design of power plants, combined and simple
7 cycle, as well as environmental assessment of
8 those, for 23 years.

9 Q And did you prepare the material that's
10 in the application regarding air quality?

11 A Yes, I did.

12 Q Could you briefly describe it?

13 A Well, as required for both the Energy
14 Commission's CEQA jurisdiction and the San Joaquin
15 Valley Air Pollution Control District's
16 requirements under federal and California Clean
17 Air Act law, we had to develop a description of
18 the project, its air emissions, estimate them;
19 incorporate the various operating scenarios,
20 steady state operation; startup and shutdown
21 emissions; emissions during commissioning the
22 first 60 days or so of project operation, because
23 those emission rates vary, for example, on an
24 hourly basis.

25 So we developed those scenarios and then

1 we used those as inputs to an air dispersion
2 modeling simulation of what the impacts from those
3 air emissions would be. And made the
4 determination that the project would neither cause
5 nor contribute to a violation of ambient air
6 quality standards, significantly contribute I
7 should say.

8 And as well, I guess I should point out
9 that the project, while required by Clean Air Act
10 law and the San Joaquin APCD's regulations, is
11 required to provide partial offsetting of its NOx
12 emissions. The nature of the project being a
13 peaker, not operating year round, as well as its
14 relatively small size compared, for example, to
15 baseload power projects, doesn't generate that
16 much in the way of emissions, at least relatively
17 speaking. And the San Joaquin Valley's
18 regulations therefore only require partial
19 offsetting, in this case partial offsetting of the
20 project's NOx, nitrogen oxide, emissions. But no
21 offsetting with respect to the other emissions,
22 what are called criteria pollutants.

23 However, the CEC requires, per its CEQA
24 authority, in areas which are nonattainment of
25 ambient or state air quality standards, requires

1 full offsetting of the emissions, themselves, or
2 precursor emissions. So in this case the project,
3 in addition to meeting the partial NOx offsetting
4 requirement for the APCD, will offset 100 percent
5 of its NOx emissions, it's SO2 emissions, its VOC
6 emissions and it's PM10 emissions.

7 Q Has the District acquired the
8 offsetting --

9 A It has acquired the VOC offsets and has
10 entered into contracts for the PM10, the NOx and
11 the SO2. And I think that scheme or that scenario
12 is incorporated into one of the Commission's
13 conditions of exemption. I believe it is AQSC-8.

14 Q You are also testifying today with
15 regard to public health and the material that's in
16 the application in section 5.8. What did you
17 determine with regard to the affect on public
18 health?

19 A Well, I guess the bottomline is that
20 there will be no significant adverse impacts that
21 result to public health from the project's air
22 emissions. Again, we look at what the, in large
23 part, the byproducts of combustion from the
24 natural gas and the turbines results in, in terms
25 of what are called air toxics.

1 And we looked at those and compared them
2 to both what's called an excess cancer risk
3 criterion, as well as both acute and chronic
4 hazard indices.

5 Just, I guess briefly, the results
6 showed that the project would be less than 1
7 percent of what was considered the acceptable
8 criterion from the excess cancer risk. That is to
9 say that one in a million excess cancers is
10 considered acceptable. And the project was
11 estimated to have, I believe, eight in a billion.

12 Similarly, with the hazard indices, what
13 is considered an acceptable number is less than
14 1.0, and the project, as I recall, has had or has
15 projected to have indices of .002 and .004.

16 So we concluded that there would not be
17 significant impacts to public health as a result
18 of the project.

19 Q You also prepared the material regarding
20 hazardous material and waste management, is that
21 true?

22 A It is.

23 Q And what did you find with regard to
24 that?

25 A Well, the project will store certain

1 quantities of what are classified as hazardous
2 materials. I think that is fairly standard for a
3 project of this type. Those materials will be
4 stored in areas which have both primary and
5 secondary containment of some form.

6 I think the most significant material
7 will be the ammonia that is used as part of the
8 NOx emissions control system. The project will
9 have to store a fairly significant quantity of
10 that onsite. Again, this is fairly standard for
11 these kinds of projects.

12 In any event, we did what's called the
13 hazardous release assessments. And we looked at a
14 worst case, which is basically a complete loss of
15 the primary containment for the ammonia stored
16 onsite, such that it would pool into its secondary
17 containment, and then off-gas over a period of
18 time. We modeled the results.

19 We also looked at an alternative
20 scenario, in this case estimating what we believe
21 would be the most likely release of ammonia. And
22 that would be during a truck delivery operation
23 where a hose connecting the delivery truck to the
24 storage tank on site would be disconnected
25 improperly and there would be a relatively small

1 amount of ammonia that would be released to the
2 ground.

3 Looked at both of those; estimated the
4 impacts; and took, as a significance criterion,
5 the point at which the off-gassing ammonia would
6 reach 75 parts per million. And that is to say
7 that below that it's not considered significant.

8 As it turned out, looking at both those
9 scenarios, the worst case was approximately 175
10 feet or so away from the release point. And while
11 this would occur with the alternative scenario,
12 which was just literally less than 10 gallons of
13 ammonia, and it would occur offsite. It was to
14 the west of the project which is an open area, an
15 industrial area where no inhabitants are sensitive
16 receptors.

17 And again concluded that the project
18 would have no significant adverse impact.

19 MR. TIEDEMANN: That concludes our
20 testimony on that.

21 HEARING OFFICER WILLIAMS: Thank you,
22 sir. Staff, do you have any?

23 MS. DeCARLO: No questions for the
24 applicant.

25 HEARING OFFICER WILLIAMS: Okay. You're

1 excused. Thank you very much.

2 MS. DeCARLO: Before we get to air
3 quality, we did not provide a witness for energy
4 resources. He is available in case the Committee
5 has any questions; however his testimony and his
6 declaration are included in exhibit 2. So we
7 don't feel it's really necessary for him to give
8 his oral testimony. However, he is available if
9 the Committee does have questions.

10 HEARING OFFICER WILLIAMS: Okay. We'll
11 move along --

12 MS. DeCARLO: Okay.

13 HEARING OFFICER WILLIAMS: -- to your
14 air quality.

15 MS. DeCARLO: Okay. Staff's witness for
16 air quality is Brewster Birdsall.
17 Whereupon,

18 BREWSTER BIRDSALL
19 was called as a witness herein, and after first
20 having been duly sworn, was examined and testified
21 as follows:

22 DIRECT EXAMINATION

23 BY MS. DeCARLO:

24 Q Mr. Birdsall, did you prepare the
25 testimony entitled air quality in the initial

1 study, exhibit 2?

2 A I did.

3 Q Do the opinions contained in your
4 testimony represent your best professional
5 judgment?

6 A Yes.

7 Q Was a statement of your qualifications
8 attached to this testimony?

9 A Yes.

10 MS. DeCARLO: And if there's no dispute
11 over Mr. Birdsall's qualifications, we can move on
12 to his testimony.

13 HEARING OFFICER WILLIAMS: Yes, Mr.
14 Tiedemann?

15 MR. TIEDEMANN: No.

16 HEARING OFFICER WILLIAMS: Okay, go
17 ahead.

18 BY MS. DeCARLO:

19 Q Can you please summarize your testimony.

20 A Yes. As Mr. Hibbeler has pointed out
21 the approach that staff takes for analyzing air
22 quality impacts for a project involves an
23 assessment of the project's emissions, and then an
24 assessment of the resulting air quality impacts
25 downwind as those emissions are dispersed.

1 We take into account the setting of the
2 project and then the resulting impacts, and
3 compare them to the setting. The setting is
4 important because in the Central Valley what is
5 characteristic of the air quality and the existing
6 condition is that the ozone concentrations and the
7 particulate matter concentrations in the Valley
8 currently do not attain the ambient air quality
9 standards that are applicable here.

10 And that baseline condition of
11 nonattainment for ozone and particulate matter
12 helps to guide how staff views the impacts of the
13 project.

14 Staff examined the construction phase
15 impacts and the operational phase impacts, and
16 I'll talk about them separately.

17 During construction we found that the
18 particulate matter emissions from the construction
19 activities would occur from the site, and they
20 would contribute to the existing violations of the
21 particulate matter standard.

22 The emissions of the particulate matter
23 and construction dust contributing to the
24 nonattainment conditions is a potentially
25 significant impact.

1 Staff went forward and evaluated what
2 kind of mitigation could be applied to mitigate
3 that potentially significant impact, and we
4 recommend conditions AQSC-1 through -5 for that
5 impact.

6 I can summarize those conditions
7 briefly. They are commonly applied to most
8 projects that are of this nature, though. The
9 conditions 1 and 4 enable an onsite mitigation
10 monitor to be present to make sure that the dust
11 emissions are continuously observed and properly
12 suppressed. And conditions SC-2 and SC-3 have
13 about a dozen steps for rigorous control of the
14 dust, as well as some steps to control equipment
15 exhaust during construction.

16 We have another condition called AQSC-5,
17 which also limits the construction activities to a
18 certain eight-hour window during the day, at least
19 during the heaviest dust-generating activities.
20 And what that helps to do is it helps to minimize
21 the 24-hour average particulate matter impact
22 caused by the project.

23 With those conditions of exception we
24 would find that the project causes no significant
25 impact during construction phases.

1 During operation, as Commissioner Boyd
2 has pointed out, the project is limited to 2500
3 hours of annual operation on a steady state, but
4 the applicant has requested to allow additional
5 hours for startup and shutdown phases and the
6 ramping up that allows the turbines to get to the
7 steady state.

8 So we analyzed a total of 3120 hours of
9 operation. And similar to construction, the
10 project would cause emissions of PM10, and it
11 would also cause emissions of ozone precursors.
12 And those emissions, because they contribute to
13 the nonattainment conditions of the region, those
14 emissions would cause potentially significant
15 impacts. And staff looked to identify what
16 mitigation would be appropriate for reducing those
17 impacts to a less than significant level.

18 And this is where the offsets come in.
19 The offset package that has been proposed by KRCD
20 includes VOC emission reduction credits; it also
21 includes some PM10 emission reduction credits.
22 And they have an option agreement to obtain future
23 NOx and VOC emission reduction credits.

24 And the quantities of those credits are
25 fully sufficient to fully offset all of the

1 operation phase emissions from the power plant.

2 And what we've done is we've taken that
3 package and we've assembled the information
4 relevant to that package and put that in condition
5 of exemption AQSC-8. And AQSC-8 requires the
6 applicant to come forward and surrender the
7 emission reduction credits prior to operation,
8 which would fully offset the project.

9 By fully offsetting the project
10 emissions staff would find that the project has no
11 significant impact to regional air quality.

12 And that concludes my explanation of the
13 CEQA impacts. And I can also get into some of the
14 aspects related to the air quality permit,
15 although that's mainly in the jurisdiction of the
16 San Joaquin Valley Air Pollution Control District.

17 So I think that would conclude my
18 testimony for now.

19 MS. DeCARLO: He's available for cross-
20 examination.

21 HEARING OFFICER WILLIAMS: Any
22 questions?

23 MR. TIEDEMANN: I have no questions.

24 HEARING OFFICER WILLIAMS: Okay. We'll
25 move along to your public health witness.

1 MS. DeCARLO: Thank you. Staff calls
2 Obed Odoemelum for our public health witness.
3 Whereupon,

4 OBED ODOEMELAM
5 was called as a witness herein, and after first
6 having been duly sworn, was examined and testified
7 as follows:

8 DIRECT EXAMINATION

9 BY MS. DeCARLO:

10 Q Mr. Odoemelum, did you prepare the
11 testimony entitled public health in the initial
12 study, exhibit 2?

13 A Yes, I did.

14 Q Do the opinions contained in your
15 testimony represent your best professional
16 judgment?

17 A Yes, they do.

18 Q Was a statement of your qualifications
19 attached to this testimony?

20 A Yes, it is.

21 Q Can you please summarize your testimony.

22 A Unlike the pollutants in the public
23 health -- in the air quality sections, the ones
24 that staff assessed for public health are the ones
25 for which there are no air quality standards. And

1 these as known as the criteria pollutants.

2 We assessed these pollutants in terms of
3 specific criteria for determine insignificance for
4 cancer risks and noncancer risks. Analysis were
5 determined to establish the highest risk level
6 possible. And using staff's identified or
7 established criteria we determined that these
8 pollutants would be significantly below the levels
9 that staff considers significant for these cancer
10 pollutants.

11 For instance, for the acute impacts,
12 which are impacts that occur shortly after
13 exposure. We established levels that are very
14 much below the levels that we've considered
15 significant for these pollutants. And the same
16 goes for the chronic impacts, which are impacts
17 that occur from long-time exposure.

18 And also cancer risk is significantly
19 lower than the levels that staff will consider
20 significant during operations.

21 The other impact of concern was from
22 possible exposure to the bacteria that causes
23 Legionnaire's Disease. And we have recommended a
24 specific condition for certification that will
25 allow for the kind of disinfection that will

1 minimize the risk from operations.

2 That's the end of my analysis.

3 MS. DeCARLO: Mr. Odoemelum is available
4 for any questions.

5 MR. TIEDEMANN: I have no questions.

6 HEARING OFFICER WILLIAMS: Okay. Thank
7 you, sir, we appreciate you coming down. You're
8 excused.

9 Let's move now to hydrology and water
10 quality.

11 MR. TIEDEMANN: We would call Scott
12 Redelfs.
13 Whereupon,

14 SCOTT REDELFS

15 was called as a witness herein, and after first
16 having been duly sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MR. TIEDEMANN:

20 Q Mr. Redelfs, you prepared this
21 declaration that you signed. Is that still your
22 testimony?

23 A Yes.

24 Q And you prepared or directed the
25 preparation of section 5.3 of the application with

1 regard to water resources?

2 A Yes, I did.

3 Q Would you summarize that very briefly
4 with regard to the water resources for this
5 project.

6 A Yes. The hydrology section goes with
7 the water sources for the peaking plant. And
8 basically we mitigated all the cumulative impacts
9 by complying with all the LORS, the laws,
10 ordinances, regulations and standards. And
11 mitigated the impact to the overdrafted basin by
12 recharge through the Fresno Irrigation District.

13 With our proposed mitigation there would
14 be no significant impact to the local water
15 supplies.

16 MR. TIEDEMANN: That will conclude his
17 direct testimony. If you have any cross --

18 HEARING OFFICER WILLIAMS: I just have a
19 question, maybe two.

20 The District's water supply is solely
21 groundwater, is that right?

22 MR. REDELFS: The Malaga County Water
23 District, yes.

24 HEARING OFFICER WILLIAMS: Yes. And
25 does the District do any water treatment?

1 MR. REDELFS: They have a reclaimed
2 water facility located approximately a mile away,
3 yes, tertiary standards.

4 HEARING OFFICER WILLIAMS: No, I mean
5 for the groundwater before it's distributed to
6 customers. Is it treated --

7 MR. REDELFS: Yes, they treat it and
8 then they also have the charcoal filter on it.

9 HEARING OFFICER WILLIAMS: And it comes
10 out potable?

11 MR. REDELFS: Yes, it's a potable supply
12 source.

13 HEARING OFFICER WILLIAMS: Okay. And
14 this is the water that's distributed to all the
15 District's customers?

16 MR. REDELFS: Yes.

17 HEARING OFFICER WILLIAMS: I have no
18 other questions.

19 MS. DeCARLO: Staff doesn't have any
20 questions for the applicant.

21 HEARING OFFICER WILLIAMS: Thank you,
22 you're excused.

23 MS. DeCARLO: Staff calls Tony Mediati
24 as our witness for hydrology and water resources.
25 Whereupon,

1 TONY MEDIATI

2 was called as a witness herein, and after first
3 having been duly sworn, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MS. DeCARLO:

7 Q Mr. Mediati, did you prepare the
8 testimony entitled hydrology and water quality in
9 the initial study, exhibit 2?

10 A Yes, I did.

11 Q Do the opinions contained in your
12 testimony represent your best professional
13 judgment?

14 A Yes, they do.

15 Q And was a statement of your
16 qualifications attached to this testimony?

17 A Yes, it is.

18 Q Can you please summarize your testimony?

19 A We looked at three main issues with
20 regard to hydrology and water quality. The first
21 one, whether construction or operation will lead
22 to significant wind or water erosion and
23 sedimentation. The second, whether the project
24 construction or operation will lead to the
25 degradation of surface or groundwater quality.

1 And the third, how the project's demand will
2 affect the local water supplies.

3 On the issue of significant wind or
4 water erosion, the project will employ BMPs to
5 control erosion and sedimentation. The stormwater
6 will be contained onsite and directed to an onsite
7 stormwater detention basin so there shouldn't be
8 any sedimentation offsite. And BMPs, such as
9 water of areas during grading and construction,
10 will control the wind erosion so that no
11 significant amounts of soil will leave the site.

12 The project will have to put together a
13 stormwater pollution prevention plan which will
14 detail all of the their stormwater control
15 procedures.

16 The second issue, whether the project
17 will lead to the degradation of surface or
18 groundwater quality. The project's about 18 miles
19 from the San Joaquin River and 15 miles from the
20 Kern River. However, there are a couple of canals
21 that are fairly close in vicinity. One of them
22 almost adjacent to the project.

23 Due to the onsite stormwater detention
24 basin no water is going to be directed towards the
25 canal; and no water is going to be withdrawn from

1 the canal for the project. So there shouldn't be
2 any impact to that portion.

3 The upper aquifer in the groundwater
4 aquifer in the area is about 50 feet below ground
5 surface. As with most of the lower San Joaquin
6 Valley, the upper aquifer is of poorer quality
7 than the lower deeper aquifer. The deeper aquifer
8 is generally used for drinking water. The upper
9 aquifer is generally not used or used for
10 irrigation.

11 The upper aquifer is of poor quality, as
12 I said. It contains pesticides and fertilizers
13 and all the things that you would expect in an
14 industrial/agricultural area.

15 The stormwater that goes to the
16 detention basin, because it will just be
17 stormwater, should be actually of a higher quality
18 than the current upper aquifer groundwater, so
19 there shouldn't be an impact to that upper
20 aquifer.

21 The project is going to use a zero
22 liquid discharge system, so they won't be
23 discharging any wastewater to contaminate the
24 current groundwater system.

25 Areas that have potential for stormwater

1 coming in contact with contamination like around
2 the ammonia storage tank and that, they're going
3 to have secondary containment areas. And that
4 water is going to be pumped through sumps and then
5 re-used in the plant. So it will not be
6 discharged to the stormwater basin.

7 The final issue that we were looking at
8 was the project's demand on local water supplies.
9 And because the project proposes to get water from
10 Malaga County, which uses groundwater in a
11 severely overdrafted basin, staff took the
12 position that any additional withdrawals of
13 groundwater would be considered a significant
14 impact. Maybe if not direct, then definitely
15 cumulative.

16 The applicant proposed to mitigate this
17 impact by recharging water into the basin; getting
18 surface water and recharging it into the basin.
19 They have agreed to recharge the amount of water
20 equal to their use. And staff believes that this
21 mitigation will mitigate 100 percent of the
22 project's use of groundwater.

23 MS. DeCARLO: Mr. Mediati is available
24 for questions.

25 MR. TIEDEMANN: I have no questions.

1 HEARING OFFICER WILLIAMS: Thank you,
2 sir. You're excused.

3 Okay. Then we'll move along to the
4 final topic that we're going to take live
5 testimony on, which is visual resources and
6 plumes.

7 MR. TIEDEMANN: Yes. We would like to
8 call Max Walenciak.
9 Whereupon,

10 MAX WALENCIAK
11 was called as a witness herein, and after first
12 having been duly sworn, was examined and testified
13 as follows:

14 DIRECT EXAMINATION
15 BY MR. TIEDEMANN:

16 Q Mr. Walenciak, I want to show you your
17 declaration which you signed on March 12th. Are
18 you familiar with that?

19 A Yes, I am.

20 Q And that is your testimony?

21 A Yes.

22 MR. TIEDEMANN: Mr. Chairman, I would
23 like to move this into evidence as an exhibit. It
24 is not on the list of exhibits, and I'd like to
25 move it in. I guess it would be exhibit number

1 1.13. And the reason it's not there is because we
2 originally had a different witness for this,
3 Marshal Gale.

4 HEARING OFFICER WILLIAMS: Okay.

5 MR. TIEDEMANN: But his declaration was
6 submitted along with the material that I submitted
7 on the pretrial testimony. So it should be there
8 before you.

9 HEARING OFFICER WILLIAMS: Okay.

10 MR. TIEDEMANN: And I would ask it be
11 accepted into evidence.

12 HEARING OFFICER WILLIAMS: Any
13 objection?

14 MS. DeCARLO: Staff has no objections.

15 HEARING OFFICER WILLIAMS: Okay, it will
16 be admitted instead of Ms. Gale's.

17 MR. TIEDEMANN: Yes.

18 HEARING OFFICER WILLIAMS: Okay. So
19 we'll just leave it as 1.12, and we'll substitute
20 it for Ms. Gale's.

21 MR. TIEDEMANN: Thank you.

22 BY MR. TIEDEMANN:

23 Q Mr. Walenciak, you're going to testify
24 today on visual resources and plumes. And did you
25 prepare the material that relates to that that's

1 in the application?

2 A I directed the preparation.

3 Q First of all, would you tell us what
4 your position is and your experience.

5 A I'm a Principal and consultant with
6 Navigant Consulting. I'm a registered
7 professional engineer in the State of California.
8 I have over 30 years of experience in operation,
9 maintenance and construction of electric power
10 plants.

11 Q And what is your testimony with regard
12 to plumes?

13 A My testimony is that basically from this
14 type of plant, a simple cycle plant, the cooling
15 tower is used for inlet chilling of the air to the
16 turbines. That we will not have a -- produce a
17 plume. And this is because plumes are normally
18 seen when you get below 60 degrees. This plant is
19 expected to operate at temperatures greater than
20 60 degrees.

21 And the inlet chilling system will
22 actually turn off when the temperature drops below
23 about 55 degrees. So there's only a small
24 timeframe where it could actually produce a plume
25 if we were even operating in that particular

1 temperature range.

2 Q And what is your testimony with regard
3 to visual resources?

4 A The visual resources were assessed for
5 both the power plant and the linears for the
6 plant. The underground for water and gas were no
7 impacts. The electric transmission line basically
8 follows an existing routing of a PG&E circuit in a
9 heavily industrialized area. And the design that
10 we assessed was a PG&E design. And there were no
11 impacts.

12 As far as the power plant we developed a
13 preliminary design for the plant and we modeled
14 that. And, again, this plant is in a heavy
15 industrial area, and consistent with the
16 background settings and there were no visual
17 impacts.

18 MR. TIEDEMANN: All right, that
19 concludes his testimony.

20 HEARING OFFICER WILLIAMS: Any
21 questions?

22 MS. DeCARLO: Staff does not have any
23 questions for the applicant.

24 HEARING OFFICER WILLIAMS: Okay, we'll
25 move along to your witness.

1 MS. DeCARLO: Staff calls Matt Trask as
2 its witness for visual resources.

3 Whereupon,

4 MATT TRASK

5 was called as a witness herein, and after first
6 having been duly sworn, was examined and testified
7 as follows:

8 DIRECT EXAMINATION

9 BY MS. DeCARLO:

10 Q Mr. Trask, did you prepare the testimony
11 entitled visual resources in the initial study,
12 exhibit 2?

13 A I did.

14 Q Do the opinions contained in your
15 testimony represent your best professional
16 judgment?

17 A They do.

18 Q Was a statement of your qualifications
19 attached to this testimony?

20 A Yes, it was.

21 Q Can you please summarize your testimony.

22 A Staff conducted a basic visual resources
23 analysis following the guidelines in the CEQA
24 guidelines.

25 Four main questions: Would the project

1 have a substantial adverse effect on scenic vista.
2 We could not identify a scenic vista in the
3 project viewshed. Therefore, no significant
4 impact under that criteria.

5 Would the project substantially damage
6 scenic resources including, but not limited to,
7 trees, rock outcroppings and historic buildings
8 within a state scenic highway. Staff used a line-
9 of-sight analysis to first decide the viewpoints
10 from which the various aspects of the project
11 could be visible. And then conducted a KOP
12 analysis, key observation point analysis, to
13 determine that there would not be a substantial
14 damage to any scenic resource. And it is also not
15 in the view of a state scenic highway.

16 Third, would the project potentially
17 degrade existing visual character or quality of
18 the site and its surround. Again, we used a KOP
19 analysis and determined that the project would not
20 degrade the existing visual character. It is of
21 low character in general in the project site; low
22 to moderate in the transmission line. And the
23 transmission line would be essentially identical
24 to other transmission lines on that route.

25 And finally, would the project create a

1 new source of substantial light or glare that
2 would adversely affect day- or nighttime use in
3 the area. First of all, we felt that the project
4 site is not viewable generally from any permanent
5 residence or other type of housing like a hospital
6 or something like that. And that with the
7 lighting mitigation proposed by the applicant
8 there would not be a significant impact.

9 We did also analyze the effects of
10 construction of the plant, itself, as well as the
11 linear facilities. And then individually on the
12 plant and the transmission line, as well as with
13 the potential plumes produced by the facility.

14 MS. DeCARLO: Mr. Trask is available for
15 any questions.

16 MR. TIEDEMANN: I have no questions.

17 HEARING OFFICER WILLIAMS: Okay. Thank
18 you, Mr. Trask, you're excused.

19 That concludes our evidentiary
20 presentation. Do we have any public members here
21 yet or anybody in the gallery that would like to
22 approach the mike and say something? I don't see
23 any.

24 I would certainly like to thank the
25 parties for their efforts in pulling this

1 together.

2 MR. TIEDEMANN: Mr. Williams, I have one
3 question. In the notice for this hearing there is
4 a paragraph that says within five days following
5 the conclusion of the hearing each party shall
6 provide the Hearing Officer a bound version of all
7 the material exhibits other than the application
8 and the initial study and so on.

9 HEARING OFFICER WILLIAMS: Right.

10 MR. TIEDEMANN: All of the exhibits have
11 already been admitted. Is it necessary to provide
12 any more?

13 HEARING OFFICER WILLIAMS: No, I think
14 we can dispense with that. Certainly I have
15 copies of all the exhibits, so there's really no
16 need for you to go through that drill.

17 MR. TIEDEMANN: Okay, thank you.

18 HEARING OFFICER WILLIAMS: Do you have
19 any closing remarks, Mr. Tiedemann?

20 MR. TIEDEMANN: No. There's no briefing
21 required, and our only remark is we hope you'll
22 issue the exemption as soon as possible.

23 (Laughter.)

24 HEARING OFFICER WILLIAMS: Staff, do
25 you?

1 MS. DeCARLO: Only that staff believes
2 the proposed project satisfies the requirements
3 for an SPPE for an exemption.

4 HEARING OFFICER WILLIAMS: Okay.

5 PRESIDING MEMBER BOYD: I would like to
6 make a comment. I would like to thank the
7 applicant and the staff. This is the simplest,
8 quietest --

9 (Laughter.)

10 PRESIDING MEMBER BOYD: -- siting case I
11 have ever experienced. And I appreciate all the
12 work that must have gone in before this day to
13 take care of that situation.

14 So, good luck; looks like it's a winner.

15 HEARING OFFICER WILLIAMS: I would
16 certainly join those remarks. Again, thank you
17 very much.

18 MR. TIEDEMANN: Thank you.

19 MS. DeCARLO: Thank you.

20 HEARING OFFICER WILLIAMS: We're
21 adjourned.

22 (Whereupon, at 11:00 a.m., the hearing
23 was adjourned.)

24 --o0o--

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 25th day of March, 2004.

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